



January 22, 2016

SENATE BILL No. 232

DIGEST OF SB 232 (Updated January 20, 2016 4:12 pm - DI 87)

Citations Affected: IC 34-30; IC 36-7.

Synopsis: Land banks. Authorizes a county, consolidated city, or second class city to which the unsafe building law applies to establish a municipal corporation known as a land bank to manage and improve the marketability of distressed real property in the county or city that establishes the land bank. Requires a land bank's bylaws to require the land bank board (board) to approve any conveyance of real property in an open meeting and consider any pertinent information regarding the property's value or the financial ability of a person before approving a conveyance. Allows the land bank to enter into an agreement that conditions the purchase, transfer, or lease of property upon the person fulfilling conditions related to the mission of the land bank. Provides that the material failure of a person to fulfill the agreement may void the purchase, transfer, or lease, unless the land bank grants the person additional time to comply with the agreement. Specifies that the procedures for disposal of real or personal property by a local government do not apply to the land bank.

Effective: July 1, 2016.

Lanane, Eckerty, Broden

January 7, 2016, read first time and referred to Committee on Local Government.
January 21, 2016, amended, reported favorably — Do Pass.

SB 232—LS 6914/DI 113



January 22, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 232

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-38 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]:

4 **Chapter 38. Land Banks**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Distressed real property" includes real property in a
7 neglected or unmarketable condition.

8 (2) "Eligible unit" means:

9 (A) a county;

10 (B) a consolidated city; or

11 (C) a second class city;

12 to which IC 36-7-9 applies.

13 (3) "Land bank" means an entity established by or in
14 accordance with an ordinance adopted under section 2 of this
15 chapter.

16 (4) "Person" means an individual, a corporation, a limited
17 liability company, a partnership, or other legal entity.

SB 232—LS 6914/DI 113



1 **Sec. 2. (a) The legislative body of an eligible unit may adopt an**
 2 **ordinance:**

3 **(1) establishing a body corporate and politic; or**

4 **(2) directing the executive of the eligible unit to organize a**
 5 **nonprofit corporation under IC 23-17;**

6 **as an independent instrumentality exercising essential**
 7 **governmental functions. The primary purpose of an entity**
 8 **established under this subsection is to manage and improve the**
 9 **marketability of distressed real property located in the territory of**
 10 **the eligible unit.**

11 **(b) The legislative body shall specify the following in the**
 12 **ordinance:**

13 **(1) The name of the entity.**

14 **(2) The number of board members, subject to section 3 of this**
 15 **chapter.**

16 **(c) The territory of a land bank established by a county is all the**
 17 **territory of the county, except for the territory of any second class**
 18 **city in the county that has established a land bank.**

19 **Sec. 3. The bylaws of the land bank must require the board of**
 20 **the land bank to:**

21 **(1) approve any purchase, transfer, or lease of real property**
 22 **held by the land bank in an open meeting of the board; and**

23 **(2) consider any pertinent information before approving the**
 24 **purchase, transfer, or lease including:**

25 **(A) the assessed value of the real property;**

26 **(B) any factors that may affect the current value of the real**
 27 **property; and**

28 **(C) the financial ability of the person to fulfill the**
 29 **conditions of the purchase, transfer, or lease.**

30 **Sec. 4. (a) A land bank is governed by a board of at least seven**
 31 **(7) and at most nine (9) directors.**

32 **(b) A director of a land bank appointed under this section must**
 33 **have demonstrated competency in an occupation or discipline that**
 34 **is relevant to the primary purpose of a land bank.**

35 **(c) Except as provided in this chapter, the term of a director of**
 36 **a land bank is for three (3) consecutive calendar years.**

37 **(d) If a director of a land bank is unable to complete the**
 38 **director's term, the authority that appointed the director shall**
 39 **appoint a successor to serve for the remainder of the incomplete**
 40 **term.**

41 **Sec. 5. (a) This section applies to the board of a county land**
 42 **bank established by a county that does not have a consolidated city.**



(b) The board of a land bank to which this section applies is comprised of the following:

(1) A director appointed by the county treasurer. A director appointed under this subdivision must be a resident of the county.

(2) A director appointed by the county auditor. A director appointed under this subdivision must be a resident of the county.

(3) Five (5) directors respectively appointed by the executives of the five (5) municipalities in the county with the five (5) largest populations, as determined by the most recent federal decennial census. A director appointed under this subdivision must reside in the municipality of the appointing authority that appoints the director.

(4) At most two (2) additional directors appointed, as applicable, in the manner and subject to the requirements set forth in the land bank's bylaws.

(c) The terms of the initial directors of a land bank to which this section applies are equal to:

(1) the remainder of the calendar year in which the land bank is established; plus

(2) a number of additional years equal to:

(A) one (1) calendar year, for:

(i) the director appointed under subsection (b)(1);

(ii) the director appointed under subsection (b)(2); and

(iii) the director appointed under subsection (b)(3) by the executive of the municipality in the county that has the largest population;

(B) two (2) calendar years, for directors appointed under subsection (b)(3) by the executives of the municipalities that have the second through the fourth largest populations in the county; and

(C) three (3) calendar years, for:

(i) the director appointed under subsection (b)(3) by the executive of the municipality that has the fifth largest population in the county; and

(ii) any directors appointed under subsection (b)(4).

Sec. 6. (a) This section applies to the board of a county land bank established by a county that has a consolidated city.

(b) The board of a land bank to which this section applies is comprised of the following:

(1) Three (3) directors appointed by the county executive. A



1 director appointed under this subdivision must be a resident
2 of the county.

3 (2) Three (3) directors appointed by the legislative body of the
4 county. A director appointed under this subdivision must be
5 a resident of the county.

6 (3) A director appointed by the county auditor. A director
7 appointed under this subdivision must be a resident of the
8 county.

9 (4) A director appointed by the local community foundation.
10 A director appointed under this subdivision must be a
11 resident of the county.

12 (5) At most one (1) additional director appointed, as
13 applicable, in the manner and subject to the requirements set
14 forth in the land bank's bylaws.

15 (c) The terms of the initial directors of a land bank to which this
16 section applies are equal to:

17 (1) the remainder of the calendar year in which the land bank
18 is established; plus

19 (2) a number of additional years equal to:

20 (A) one (1) calendar year, for directors appointed under
21 subsection (b)(1);

22 (B) two (2) calendar years, for directors appointed under
23 subsection (b)(2); and

24 (C) three (3) calendar years, for directors appointed under
25 subsection (b)(3) through (b)(5).

26 Sec. 7. (a) This section applies to the board of a land bank
27 established by a second class city.

28 (b) The board of a land bank to which this section applies is
29 comprised of the following:

30 (1) Three (3) directors appointed by the executive of the
31 second class city. A director appointed under this subdivision
32 must be a resident of the second class city.

33 (2) Three (3) directors appointed by the legislative body of the
34 second class city. A director appointed under this subdivision
35 must be a resident of the second class city.

36 (3) A director appointed by the county treasurer of the county
37 in which the second class city is located, or the county
38 treasurer of the county in which most residents of the second
39 class city reside, if the second class city is located in more than
40 one (1) county. A director appointed under this subdivision
41 must be a resident of the second class city.

42 (4) At most two (2) additional directors appointed, as



1 applicable, in the manner and subject to the requirements set
2 forth in the land bank's bylaws.

3 (c) The terms of the initial directors of a land bank to which this
4 section applies are equal to:

5 (1) the remainder of the calendar year in which the land bank
6 is established; plus

7 (2) a number of additional years equal to:

8 (A) one (1) calendar year, for directors appointed under
9 subsection (b)(1);

10 (B) two (2) calendar years, for directors appointed under
11 subsection (b)(2); and

12 (C) three (3) calendar years, for directors appointed under
13 subsection (b)(3) or (b)(4).

14 Sec. 8. Except as otherwise provided in this chapter, a land bank
15 is granted all powers necessary, convenient, or appropriate to
16 carry out and effectuate the land bank's public and corporate
17 purposes, which include the power to do the following:

18 (1) Sue or be sued in the land bank's own name.

19 (2) Enter into contracts.

20 (3) Establish accounts with financial institutions.

21 (4) Acquire, lease, improve, repair, renovate, and dispose of
22 property.

23 (5) Borrow money, including issue bonds.

24 (6) Pledge collateral.

25 (7) Make investments.

26 (8) Hire employees, including an executive director.

27 (9) Procure insurance.

28 Sec. 9. (a) A land bank shall endeavor to acquire a diverse
29 portfolio of properties to enable the land bank to dispose of diverse
30 properties in diverse real estate markets in the county or municipal
31 territory that the land bank serves and, thereby, generate revenue
32 for the land bank in a sustainable manner. A land bank shall
33 acquire property for the purpose of supporting the mission of the
34 land bank.

35 (b) A land bank's priorities concerning the disposition of
36 properties from the land bank must support the mission of the land
37 bank, which includes the sale or transfer of properties:

38 (1) for redevelopment that will act as a catalyst for further
39 development;

40 (2) that support a comprehensive development plan or
41 strategic plan for neighborhood revitalization;

42 (3) that reduce blight in the community;



- (4) that revitalize or stabilize neighborhoods;
- (5) that will be returned to productive, tax paying status;
- (6) that will be returned to productive uses, including development of side lots, green spaces, and gardens;
- (7) that are available for immediate ownership or occupancy without a need for substantial rehabilitation;
- (8) that will be used for affordable housing; or
- (9) that will generate operating support for the functions of a land bank.

Sec. 10. (a) A land bank shall do the following:

- (1) Maintain an inventory of real property held by the land bank.
- (2) Develop policies, guidelines, and procedures for the acquisition, redevelopment, and disposition of property by and from the land bank. The policies, guidelines, and procedures developed under this subdivision must be formulated in plain language with the objective of being clearly understood.
- (3) Make the information described in subdivisions (1) and (2) available for inspection:
 - (A) at the offices of the land bank during regular business hours; and
 - (B) on the land bank's Internet web site.
- (4) Coordinate the land bank's activities with any land use plans that affect real property held by the land bank.

(b) If real property held by a county land bank is located in the territory of a municipality of the county, the county land bank shall offer to convey the real property to the municipality before the county land bank offers, or accepts an offer, to convey the real property to any other individual or entity. An offer to convey real property made by a county land bank to a municipality under this section expires sixty (60) days after the county land bank makes the offer, unless the county land bank and the municipality agree to another period.

Sec. 11. A land bank may:

- (1) enter into an interlocal agreement under IC 36-1-7 with another governmental entity; or
- (2) otherwise contract with another governmental entity in Indiana to perform services for the governmental entity.

Sec. 12. (a) This subsection does not apply to a consolidated city. The legislative body of an eligible unit that has adopted an ordinance to create a land bank under section 2 of this chapter may



1 not rescind the ordinance that the legislative body adopted under
2 IC 36-7-9-3, unless the land bank is first dissolved.

3 (b) A land bank does not have authority to exercise the power
4 of eminent domain.

5 Sec. 13. Within six (6) months after an eligible unit has
6 established a land bank under this chapter, the eligible unit shall
7 furnish the land bank with a list of real property:

8 (1) that is located in the territory of the land bank;

9 (2) for which the eligible unit holds:

10 (A) a tax sale certificate issued under IC 6-1.1-24; or

11 (B) a tax deed issued under IC 6-1.1-25; and

12 (3) that is not committed to a redevelopment project or for
13 another purpose.

14 At the time the eligible unit furnishes the list to the land bank, the
15 eligible unit shall offer to assign the tax sale certificates and convey
16 the real property described on the list to the land bank at no cost
17 to the land bank. For each tract or item of real property described
18 on the list, the offer expires six (6) months after the offer is made
19 to the land bank, unless the eligible unit specifies a longer period
20 in the offer. If, for a particular tract or item of real property on the
21 list, the land bank accepts the offer, the eligible unit shall assign the
22 tax sale certificate or convey the real property, as applicable, to the
23 land bank at no cost to the land bank. If, for a particular tract or
24 item of real property on the list, the land bank rejects the offer, the
25 eligible unit may dispose of the real property as otherwise provided
26 by law.

27 Sec. 14. (a) The land bank may, as a condition of the purchase,
28 transfer, or lease, require a person to enter into an agreement that
29 conditions the purchase, transfer, or lease on the person fulfilling
30 one (1) or more of the following terms:

31 (1) If the property is a dwelling, reside in the real property as
32 the person's principal place of residence for a specified period
33 not to exceed three (3) years.

34 (2) Bring the property up to minimum code standards in not
35 more than twelve (12) months.

36 (3) Carry adequate fire and liability insurance on the
37 property at all times.

38 (4) If the conveyance is to a person to develop the property,
39 cause development of the property within a specified period,
40 not to exceed five (5) years.

41 (5) Comply with any additional terms, conditions, and
42 requirements as the land bank requires that further the



mission of the land bank.

(b) Any material failure of a person to fulfill the agreement described in subsection (a) nullifies the agreement. Upon nullification of the agreement:

(1) the sale, transfer, or lease of the property is void; and

(2) the land bank retains the interest in the property that the land bank possessed before the sale, transfer, or lease.

However, the land bank may grant the person a specified period, not to exceed two (2) years, to come into compliance with the terms of the agreement. The land bank may subordinate its interest under the terms of the agreement to financial institutions or persons lending money to the person for the purpose of allowing the person to fulfill the terms of the sale, transfer, or lease.

Sec. 15. IC 36-1-11 does not apply to a sale, transfer, or lease of property by the land bank.

Sec. 16. (a) This section applies to the following:

(1) A person who owes:

(A) delinquent taxes;

(B) special assessments;

(C) penalties;

(D) interest;

(E) costs directly attributable to a prior tax sale, if the tax sale occurs before July 1, 2016; or

(F) costs attributable to a prior tax sale or tax delinquency, if the tax sale occurs after June 30, 2016;

on a tract of real property listed under IC 6-1.1-24-1.

(2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract that is offered by a land bank in a sale, exchange, or lease under this chapter.

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the land bank retains the interest in the tract that the land bank possessed before the sale, transfer, or lease of the tract.

Sec. 17. (a) As used in this section, "foreign business association" means a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, or limited partnership that is organized under the laws of another state or another country.

(b) A foreign business association may not purchase, receive, or



1 lease property from a land bank unless at the time the sale,
2 transfer, or lease occurs:

3 (1) the foreign business association has obtained a certificate
4 of authority from, or registered with, the secretary of state in
5 accordance with the procedures described in IC 23, as
6 applicable; and

7 (2) the foreign business association is in good standing in
8 Indiana as determined by the secretary of state.

9 (c) If a foreign business association purchases, receives, or leases
10 a tract that the foreign business association was not eligible under
11 subsection (b) to purchase, receive, or lease, the sale, transfer, or
12 lease of the property is void and the land bank retains the interest
13 in the tract that the land bank possessed before the sale, transfer,
14 or lease of the tract.

15 Sec. 18. (a) As used in this section, "look back period"
16 associated with a specified year means the period beginning on the
17 first day of the fifth year immediately preceding the specified year
18 and ending on the final day of the second year immediately
19 preceding the specified year.

20 (b) On or before February 1 of each year, a land bank shall
21 deliver a report to the county auditor and the county treasurer of
22 the county in which the land bank is located in a format
23 determined by the county auditor that shows for each parcel of real
24 property sold or otherwise conveyed by the land bank during the
25 look back period associated with the year:

26 (1) the year in which the parcel was sold or otherwise
27 conveyed by the land bank;

28 (2) the parcel number and street address of the real property;
29 and

30 (3) the grantee of the conveyance.

31 If the land bank is located in more than one (1) county, the
32 information for each parcel of real property must be segregated by
33 county in the report and the land bank shall deliver the report to
34 the county auditor and the county treasurer of each county in
35 which the land bank is located.

36 (c) Whenever property taxes are distributed to taxing bodies by
37 a county treasurer, the county treasurer shall reduce the amount
38 of each taxing body's distribution calculated without regard to this
39 subsection by an amount equal to twenty-five percent (25%) of the
40 remainder of:

41 (1) the part of the taxing body's distribution of property taxes
42 calculated without regard to this subsection that is



1 attributable to real property sold or otherwise conveyed by a
 2 land bank during the look back period associated with the
 3 year of distribution; minus

4 (2) the part of the amount described in subdivision (1) that is
 5 attributable to property taxes:

6 (A) levied for debt service, including lease rental
 7 payments;

8 (B) imposed on real property that is part of a brownfield
 9 plan;

10 (C) authorized by a referendum; or

11 (D) allocated for use in an allocation area.

12 (d) The county treasurer shall divide the remaining amount of
 13 property taxes equal to the sum of the reductions made under
 14 subsection (c) among each land bank in the county on the basis of
 15 whether the real property on which the property taxes were
 16 imposed was sold or otherwise conveyed by the land bank during
 17 the look back period associated with the year of distribution. The
 18 county treasurer shall distribute a land bank's share determined
 19 under this subsection to the land bank without appropriation.

20 Sec. 19. (a) Employees of a land bank are not employees of the
 21 eligible unit that established the land bank.

22 (b) The board of a land bank may elect by resolution to provide
 23 programs of group health insurance for the land bank's employees
 24 and retired employees as provided under IC 5-10-8-2.6.

25 (c) The board of a land bank may elect by resolution to provide
 26 retirement and disability benefits for employees, which may be by
 27 means of participation in the public employees' retirement fund as
 28 provided under IC 5-10.3-6.

29 Sec. 20. A land bank's income is not subject to taxation under
 30 IC 6-3-1 through IC 6-3-7.

31 Sec. 21. Notwithstanding IC 6-1.1-10-4, after a land bank
 32 acquires title to a parcel of real property, the property tax
 33 exemption provided under IC 6-1.1-10-4 terminates for the parcel
 34 of real property on the final day of the first uninterrupted sixty
 35 (60) month period for which the land bank has leased, or offered
 36 to lease, all or part of the parcel of real property to one (1) or more
 37 tenants.

38 Sec. 22. A land bank is subject to IC 5-14-1.5 (open door law)
 39 and IC 5-14-3 (public records law).

40 Sec. 23. The state board of accounts shall audit the funds and
 41 accounts of a land bank as provided under IC 5-11-1-25.

42 Sec. 24. A land bank may not be held liable for damages or



1 subjected to equitable remedies for:

2 (1) breach of a common law duty;

3 (2) a violation of Indiana law; or

4 (3) a violation of any order, permit, license, variance, or plan
5 approval;

6 concerning environmental damage to, or attributable to, a tract or
7 item of real property held by the land bank.

8 SECTION 2. IC 34-30-2-154.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2016]: **Sec. 154.5. IC 36-7-38-24 (Concerning**
11 **a land bank for environmental damage related to real property**
12 **held by the land bank).**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 232, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 15 and 16, begin a new line block indented and insert:

"(4) "Person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity."

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"Sec. 3. The bylaws of the land bank must require the board of the land bank to:

(1) approve any purchase, transfer, or lease of real property held by the land bank in an open meeting of the board; and

(2) consider any pertinent information before approving the purchase, transfer, or lease including:

(A) the assessed value of the real property;

(B) any factors that may affect the current value of the real property; and

(C) the financial ability of the person to fulfill the conditions of the purchase, transfer, or lease."

Page 2, line 17, delete "3." and insert "4."

Page 2, line 28, delete "4." and insert "5."

Page 3, line 25, delete "5." and insert "6."

Page 4, line 13, delete "6." and insert "7."

Page 5, line 1, delete "7." and insert "8."

Page 5, line 15, delete "8." and insert "9."

Page 5, line 39, delete "9." and insert "10."

Page 6, line 22, delete "10." and insert "11."

Page 6, line 27, delete "11." and insert "12."

Page 6, line 34, delete "12." and insert "13."

Page 7, between lines 13 and 14, begin a new paragraph and insert:

"Sec. 14. (a) The land bank may, as a condition of the purchase, transfer, or lease, require a person to enter into an agreement that conditions the purchase, transfer, or lease on the person fulfilling one (1) or more of the following terms:

(1) If the property is a dwelling, reside in the real property as the person's principal place of residence for a specified period not to exceed three (3) years.

(2) Bring the property up to minimum code standards in not more than twelve (12) months.



(3) Carry adequate fire and liability insurance on the property at all times.

(4) If the conveyance is to a person to develop the property, cause development of the property within a specified period, not to exceed five (5) years.

(5) Comply with any additional terms, conditions, and requirements as the land bank requires that further the mission of the land bank.

(b) Any material failure of a person to fulfill the agreement described in subsection (a) nullifies the agreement. Upon nullification of the agreement:

(1) the sale, transfer, or lease of the property is void; and

(2) the land bank retains the interest in the property that the land bank possessed before the sale, transfer, or lease.

However, the land bank may grant the person a specified period, not to exceed two (2) years, to come into compliance with the terms of the agreement. The land bank may subordinate its interest under the terms of the agreement to financial institutions or persons lending money to the person for the purpose of allowing the person to fulfill the terms of the sale, transfer, or lease.

Sec. 15. IC 36-1-11 does not apply to a sale, transfer, or lease of property by the land bank."

Page 7, line 14, delete "13." and insert "16."

Page 7, line 35, delete "14." and insert "17."

Page 8, line 13, delete "15." and insert "18."

Page 9, line 18, delete "16." and insert "19."

Page 9, line 27, delete "17." and insert "20."

Page 9, line 29, delete "18." and insert "21."

Page 9, line 36, delete "19." and insert "22."

Page 9, line 38, delete "20." and insert "23."

Page 9, line 40, delete "21." and insert "24."



Page 10, after line 5, begin a new paragraph and insert:

"SECTION 2. IC 34-30-2-154.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 154.5. IC 36-7-38-24 (Concerning a land bank for environmental damage related to real property held by the land bank).**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 232 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 2.

